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LONG ISLAND OFFICE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TO BE FILED UNDER SEAL

UNITED STATES OF AMERICA

- against -

MICHAEL MARANDA,

Defendant.

C O M P L A I N T
(T. 16, U.S.C., §§
1538(a)(1)(E), 1538
(a)(1)(F), 3372(a)(1),
3373(d) and T. 18,
U.S.C., §§ 2 and 3551
et seq.)

EASTERN DISTRICT OF NEW YORK, SS:

RICHARD GAMBA, being duly sworn, deposes and says that he is a Special Agent of the United States Fish and Wildlife Service ("USFWS"), duly appointed according to law and acting as such.

Upon information and belief, there is probable cause to believe that the defendant MICHAEL MARANDA, together with others, within the Eastern District of New York, knowingly received, transported, and sold in interstate commerce fish having a market value in excess of \$350, to wit: an Asian Arowana, that defendant knew had been taken, possessed, imported, transported, and sold in violation of Title 16, United States Code, Sections 1538(a)(1)(E) and 1538(a)(1)(F).

(Title 16, United States Code, Sections 3372(a)(1) and 3373(d)).

The source of my information and the grounds for my belief are as follows:

Introduction

1. I have been employed as a Special Agent with United States Fish and Wildlife Service ("USFWS") for approximately one year. I am currently assigned to the agency's office in Valley Stream, New York. Prior to my employment as a Special Agent with the USFWS, I was employed as a Special Agent at the National Oceanic and Atmospheric Administration's Office of Law Enforcement, which is maintained by the Department of Commerce, where I worked for approximately two and one-half years. My responsibilities as a USFWS Special Agent include enforcement of the regulations of the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES"), 27 U.S.T. 1087; T.I.A.S. No. 8249, an international treaty to which the United States is a party. A purpose of CITES was to monitor and restrict trade in certain species of fish, wildlife and plants to protect them from commercial exploitation that might diminish the ability of the species to survive in the wild. In addition, my responsibilities include enforcement of the Endangered Species Act, 16 U.S.C. §§ 1538 et seq., and the Lacey Act, 16 U.S.C. §§ 3371 et seq. I base my knowledge supporting this affidavit upon my personal involvement in this investigation as well as upon

information provided to me by law enforcement officials and other individuals.¹

Background, Relevant Statutes, and Regulations

2. Native to Southeast Asia, the Scleropages formosus is an endangered species of fish known colloquially as the Asian Arowana or Dragon fish (referred to hereinafter as the "Asian Arowana"). The Asian Arowana is a highly valuable and sought-after species of fish in the international pet trade.

3. As a signatory to CITES, an international treaty that provides for the protection of endangered species, the United States, among numerous other parties, recognizes that, international cooperation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade. CITES classified protected species in its appendices. Appendix I included all species presently "threatened with extinction which are or may be affected by trade." CITES, Art. II(1). CITES provided that "[t]rade in specimens of [Appendix I] species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances." Id. The Asian Arowana is currently listed in Appendix I of CITES.

¹ Because the purpose of this complaint is to set forth only those facts necessary to establish probable cause for the issuance of an arrest warrant, I have not set forth all of the facts and circumstances of which I am aware.

4. The Asian Arowana is also listed as an endangered species in Title 50, Code of Federal Regulations, Section 17.11, which is a regulation promulgated by the Secretary of the Interior pursuant to the Endangered Species Act. See 16 U.S.C. § 1533; 50 C.F.R. § 23.23. Specifically, the Endangered Species Act protects listed endangered species by making it unlawful to "deliver, receive, carry, transport, or ship in any means whatsoever in the course of a commercial activity any such species." 16 U.S.C. § 1538(a)(1)(E). In addition, the Act makes it unlawful to "sell or offer for sale in interstate or foreign commerce any such species." 16 U.S.C. § 1538(a)(1)(F). Thus, because Asian Arowanas are listed as an endangered species, they may not be legally imported into the United States. It is not uncommon that individuals engaged in illicit trafficking in endangered species will run unlawful captive-breeding programs. However, based on my training and experience, and facts that I have learned in the course of this investigation, I believe that there are no captive breeding programs for Asian Arowanas in the United States.

5. The Lacey Act makes it unlawful for any person to transport, sell, or acquire fish or wildlife that are taken, possessed, transported, or sold in violation of any law, treaty, or regulation of the United States. 16 U.S.C. §§ 3372(a)(1), 3373(d). It is therefore a violation of the Lacey Act to sell

an Asian Arowana that was unlawfully imported into the United States in violation of the Endangered Species Act and CITES.

The Investigation into the Internet Sale of Asian Arowana

6. On or about January 25, 2005, a Wildlife Inspector working in the New York Office informed me about an advertisement for the sale of Asian Arowanas on the Internet pet-auction site "Aquabid.com." I initiated an investigation into the apparently unlawful sale of Asian Arowanas on this website.

7. On February 8, 2005, I joined the Aquabid.com site using an undercover identity. A review of the website revealed that an individual registered on Aquabid.com as "AROGUY" had posted an advertisement for the sale of Asian Arowanas. The advertisement made specific mention of the defendant's ability and willingness to ship Asian Arowanas anywhere within the United States. On the same day, I sent an e-mail message to the defendant at his email address csx4236@yahoo.com. In my e-mail message, I asked a series of basic questions regarding the advertisement of Asian Arowanas for sale.

8. The defendant responded to my e-mail, using the e-mail address csx4236@yahoo.com. He identified himself as MICHAEL MARANDA and stated that he would ship Asian Arowanas to New Jersey and provided a phone number. MARANDA asked if I wanted to meet to select an Asian Arowana.

Asian Arowana Purchase # 1

9. On February 13, 2005, the defendant MICHAEL MARANDA called my mobile phone. During the ensuing conversation, which was recorded, MARANDA stated that he currently had ten Asian Arowanas for sale and that he gets more all the time. MARANDA stated that he gets his Arowanas from a man in California. He explained that his connection in California lives next to a man who imports Arowanas by the hundreds. MARANDA stated that he knew these fish were illegally imported. He also stated that all of these species of fish come from other countries because they are impossible to breed in the United States. He stated that he would ship Arowanas out of the state of New York and had done so before. MARANDA sent the pictures and prices of the Asian Arowanas he had for sale to my undercover e-mail. He also sent his home address of 38 Oaklawn Avenue, Farmingville, New York 11738, and stated that he would accept checks and money orders for payment.

10. On April 1, 2005, I observed a new auction for "AROGUY" on the Internet site Aquabid.com. I e-mailed MARANDA at csx4236@yahoo.com, and asked if I could purchase an Asian Arowana and if he could ship the fish to New Jersey. MARANDA sent a responding e-mail in which he agreed and stated the price would be \$2,500.00 for the Asian Arowana and \$60.00 for shipping costs.

11. On April 5, 2005, I e-mailed MARANDA and requested that he send the Asian Arowana on Thursday, April 7, 2005 to my specified undercover identity at a designated undercover Post Office box in Wayne, New Jersey. On the same day, I sent the defendant by overnight mail a cashier's check in the amount of \$2,560. On Friday April 8, 2005, USFWS agents picked up a Fed-Ex box that was addressed to the name and address that I had provided to the defendant. The box contained one live Asian Arowana packed in a plastic water-filled container.

Asian Arowana Purchase # 2


12. On June 5, 2005, I called MICHAEL MARANDA on his mobile phone at approximately 5:48 p.m. During the following conversation, which was recorded, MARANDA informed me that he currently had seven Asian Arowanas for his own personal enjoyment and four other Asian Arowanas available for immediate sale. He also told me that in the past, he had sold to about seven or eight persons who had bought two or three Asian Arowanas each. I then arranged with MARANDA to come to his residence that week to purchase another Asian Arowana.

13. On June 9, 2005, at approximately 10:22 a.m., I arrived at MICHAEL MARANDA'S residence at 38 Oaklawn Avenue, Farmingville, New York. I was wearing a personal recorder and a surveillance wire. MARANDA invited me into the residence.

Inside the residence I observed an approximately six-hundred-gallon fish tank containing seven Asian Arowanas. The tank also contained two Fly River turtles, which are also endangered species. During our conversation, which was recorded, MARANDA repeatedly stated that he was aware that Asian Arowanas and Fly River turtles were endangered species and unlawful to import into the United States. The defendant also stated that his bedroom is located on the second floor of the residence. In a back room of the residence, MARANDA had another tank with four separate divided areas, each containing an Asian Arowana. MARANDA informed me that these four Asian Arowanas were for sale and stated the prices of the Asian Arowanas. I offered MARANDA \$2700.00 for one of the Asian Arowana in his residence and MARANDA accepted this offer. As MARANDA bagged the Asian Arowana, I counted out the \$2700.00 in the kitchen. I handed MARANDA the money and he counted it. I then thanked him and left the residence with one Asian Arowana.

WHEREFORE, your deponent respectfully asks that a warrant be issued for defendant MICHAEL MARANDA so that he may be dealt with according to the law. Given the confidential nature of this continuing investigation, the Government respectfully requests that this affidavit and all papers submitted herewith be maintained under seal until this Court or

another Court of competent jurisdiction orders otherwise.



RICHARD GAMBA
Special Agent
United States Fish and Wildlife
Service

Sworn to before me this
1st day of July, 2005

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK